

BOARD OF APPEALS CASE NO. 5187

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BEFORE THE

APPLICANT: Thomas I. Martin

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ZONING HEARING EXAMINER

REQUEST: Variances to transfer a development right to an adjoining parcel more than 500 feet from the parcel; Rocks Road, Pylesville

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 10/24/01 & 10/31/01

HEARING DATE: December 10, 2001

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Record: 10/25/01 & 11/2/01

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Thomas I. Martin, is requesting a variance, pursuant to Section 267-34D(4) of the Harford County Code, to transfer a development right to an adjoining parcel in excess of 500 feet from that parcel in an AG/Agricultural District.

The subject parcel is located at Rock's Road, North of Bush's Corner and is more particularly identified on Tax Map 10, Grid 4B, Parcel 108. The parcel consists of 9.56± acres, is zoned AG/Agricultural and is entirely within the Fifth Election District.

The Applicant, Mr. Thomas I. Martin appeared and testified that he is the owner of the subject property. He wants to transfer one of his development rights to another parcel owned by him but located more than 500 feet away from the conveying parcel. The Applicant owns the subject property which he purchased from Mabel Tahaney in 2000 (the "Tahaney property"). Referring to Attachment 7 to the Staff Report, the witness stated that he owns all of the other parcels shown on that exhibit outlined in yellow and green. Parcel 51 (also outlined in yellow and consisting of 49± acres - Martin) is the parcel with the development right. The intent is to transfer that development right to the subject parcel. The Applicant intends to maintain the original parcel in Agricultural use and develop the receiving parcel as two (2) residential lots. While the two lots are separated by more than 500 feet, the Applicant owns all of the parcels in between the two. The property immediately contiguous to the subject property and also owned by the Applicant has excess development rights but that property has been placed in the Agricultural Preservation District and may not transfer or convey its development rights after being placed in that program according to the Applicant and the Department of Planning and Zoning.

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The Department of Planning and Zoning concurs with each and every fact alleged by the Applicant and agrees that the parcel configuration is unique, that no material adverse impact will result from approval of the request and recommends approval.

There were no persons who appeared in opposition to the subject request.

CONCLUSION:

The Applicant is requesting a variance, pursuant to Section 267-34D(4) of the Harford County Code, to transfer a development right to an adjoining parcel in excess of 500 feet from that parcel in an AG/Agricultural District.

The Harford County Code, pursuant to Section 267-34D(4), provides as follows:

“Development rights established in Subsection D(3) may be transferred from one parcel to another parcel, either contiguous thereto or within 500 feet therefrom, within this district in accordance with the following:

- (a) All development rights shall be transferable except one right for each existing dwelling unit, provided that in no event shall less than one right be retained with the parcel. The right to a family conveyance shall not be transferable.
- (b) Contiguous parcels under common ownership may be considered one parcel.
- (c) Development rights shall only be transferred by agreement, deed, easement or other written instrument, which shall be recorded among the land records of the county. The document shall limit future development in accordance with these provisions.”

Section 267-11 of the Harford County Code permits variances, and states:

"Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest."

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Based on the testimony presented, the Hearing Examiner finds that the impact of the community is non-existent since the conveyance is from one end of a large farm owned by the Applicant to the other end of that large farm area. The receiving property is not as suitable for agricultural uses as the conveying parcel which will remain in active agriculture.

The Hearing Examiner finds the situation unique and recommends approval of the subject request.

Date JANUARY 15, 2002

William F. Casey
Zoning Hearing Examiner